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International Court of Justice

H0921-0002

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

MONDAY, 27 May 1946

COMMISSIONERS:

Mr. I. D. McIlwraith
Mr. Igor Rasymoz

SA

(The commission resumed at 1620 hours.)

Dr. GOTTFRIED Boley, a witness, took the stand and testified as follows:

MR. McILWRAITH: Your name is Gottfried Boley?

WITNESS: Yes.

MR. McILWRAITH: Will you raise your right hand, and repeat after me?

I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeats the oath.)

MR. McILWRAITH: You may sit down.

BY DR. ASCHENAUER, for S.A.:-

Q You were Ministerialrat in the Reich Chancellory?

A Yes, since the first of March, 1943, I was in the Reich Chancellory since January, 1941.

Q Where were you employed previously?

A I was previously employed in the Reich Finance Ministry as State Counsellor.

Q Are you, so to speak, an expert witness on personnel matters regarding officials?

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A During my career I have had occasion to get information about the civil service regulations and officials since I was the personnel expert in the Reich Finance Ministry and Reich Chancellory, and in both I dealt with personnel.

LT. COL. BROOKHART: Might I inquire as to what ~~part of~~ the document the witness seems to ~~may~~ be referring to?

WITNESS: This is the questionnaire which was submitted to me and the answers, which I wrote down to support my memory.

LT. COL. BROOKHART: May I request that the witness be permitted to examine only such documents ~~that~~ as are put before him by ~~Consul~~ COUNSEL?

MR. McILWRAITH: You must answer questions of your own knowledge or say you cannot answer them.

WITNESS: I put the notes down completely from memory.

MR. McILWRAITH: But you have told us that they were questions asked you by somebody else.

WITNESS: Yes, ~~and~~ questions which the lawyer gave me.

MR. McILWRAITH: I don't think you need refer to them.

WITNESS: I am also able to speak from memory.

BY DR. ASCHENAUER:

Q Were you active in the SA?

A Yes, from 1 November 1933.

Q What rank did you hold there?

A I was Oberscharfuehrer, but it may be that in 1944 I was promoted to Sturmfuehrer since a colleague told me so. I never received official confirmation of this from the SA.

Q Did you earn this rank through service?

A No. I did my last SA service in January, 1941, before I moved to Berlin from Kassel.

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Q Was it customary for officials to be given a rank on the basis of their service?

A Not generally, but if they were officials in somewhat high positions, such as State Secretary, Section Chiefs, and so forth, in these cases it was advisable that they have a uniform to wear on certain occasions. These officials were given a title and a uniform of the organizations, but they had no duties in the organizations. These are so-called honorary ranks or special duty ranks. They were mostly high ranks but it also happened that lower ranks were given on an honorary basis as in my case, for instance.

Q Before the seizure of power, did a large proportion of career officials belong to the Party or the SA?

A No, a very small part. The Weimar Constitution had the rule that the officials had to serve in a Party ~~of~~ a certain community, and for that reason and from his training, the official joined the Party.

From my own observation I must say that the greater part of high officials rejected National Socialism. The majority of the votes for National Socialism before the seizure of power probably were given by the middle and lower officials.

Q What was the effect of the seizure of power on the officials? First, tell me what the effect was on the career officials, and then on the political officials.

A I can hardly answer this question fully under these circumstances. I can only give the main facts.

The career officials, the groups of career officials, as it was formed under the Prussian Kings, was a special group of. . .

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M. MONNERAY: May I ask whether the Defense Consul can confine his questions to more specific subjects and avoid all these speeches?

COL. JONES: I cannot see how the effect of the seizure of power on civil service is relevant to the case at all.

DR. ASCHENAUER: This question isnecessary in order to explain the effect of laws and regulations on the officials. This is necessary to show whether the membership in these organizations was a matter of compulsion or whether it was the result of a legal regulation.

MR. McILWRAITH: How does the history of the Prussian Kings affect a decree in 1933?

DR. ASCHENAUER: This is important because only through knowledge of the histroy of career officials can the effect of National Socialism be shown.

MR. McILWRAITH: I do not know in what way this witness is qualified to speak on historical matters.

DR. ASCHENAUER: Every official in the Reich Chancellory is qualified to speak of the history. . .

MR. McILWRAITH: The Tribunal will not hear the question on the historical portion.

DR. ASCHENAUER: Then I will ask this question.

BY DR. ASCHENAUER:

Q Did the State, at the beginning of National Socialistic regime issue orders, laws and regulations which had an effect on career officials?

A Yes. All the rules, laws and regulations about the reconstruction of the State had to have an effect on the State officials since they were the ones who carried out the laws. On the other hand, the official was ~~obligated~~ obliged to serve the State, even after the seizure of power, since it is in the nature

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of the German civil service system for the official to continue to do his duty in spite of the change of the political Party.

As for laws, I would like to mention especially, the one for the rehabilitation of career officialdom.

Q What was the significance of this so-called law for the rehabilitation of career officialdom?

A It was asserted during a previous representation, career officialdom had been infected with people who were not qualified in their field. For that reason, it was to be rehabilitated. Any official who had the misfortune of having a political conviction different from the Party which had now come to power had to be dismissed. Nevertheless, the policy in this connection was for the time being moderate. But the old career officials condemned the fact that the National Socialists did what they had criticized their predecessors for doing, and that it put people into office who had done political service but had no expert qualification.

Q What was the effect of the law on the unity of the Partisan state on career officialdom?

A This law had no great effect since it was only of a nature which affected the State as it developed. But the law gave the Party organization great moral support on asserting their influence on the administration and officials.

Q How could the duty of the official to the State and his relation to the Party be reconciled?

A The official owed the State absolute obedience. The State identified itself with the Party and the organizations. This meant for the officials, to a certain degree, a duty for obedience to the Party and its organizations. How this worked out in practice depended entirely on the administrative plane in which this official was employed and on the habits of the local Party organization

Many officials were requested to take an active stand for and in the Party.

Q Did the point of view of a frictionless transfer have any influence on the officials?

A I understand the question as follows: Did the official remain loyal to his duties after the 30th of January, 1933, in spite of the fact that his inner convictions were not the same as those of the Nazi Party?

That is true. The duty of the official was to stick to his post, especially at the time of a change of regime, and to continue the vital activities of administration.

Q Then the duty of the official and the law of the ~~xxxxxx~~x units of a Partisan state ~~xxxxx~~actually laid compulsion on the officials to serve the Party such as the SA?

A The duty, yes. The law ~~duty~~ of a Partisan state to a lesser ~~reasonable~~ extent. Rather, the general tenor of the statments which were heard from the authoritative sources after 30 January 1933, mentioned new duties of the officials which, among other things, said that the official was to take active part in the Party and. . .

COL. ~~XXXXXX~~ GRIFFITH JONES: I hate to interrupt, ~~but~~ this evidence, not that ~~xxxx~~ it is in any way difficult from the point of view of the Prosecution, but in the interest of time I do not think it is necessary. Nothing that this witness ~~xxx~~ has yet said has any bearing upon the question whether civil service employees were compelled to belong to the SA or not, and as I understand it, that ~~was~~ is the question.

MR. McILWRAITH: What we are concerned with is whether there ~~xxxx~~ was any physical compulsion or any legal decree which forced them to join and remain in the Party. Will you please direct ~~those~~ some questions ~~xx~~ to those matters and obtain ~~those~~ closer answers?

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DR. ASCHENAUER: I am thankful that I was able to ask these questions as a preliminary, and now I come to the legal portion.

BY DR. ASCHENAUER:

Q Were there laws forcing the officials or the employees to join the Party or its organizations?

A There is a law of the 28th of February, 1939, on the training and career of the German official. This order says that the candidate applying for a State position must belong to the Party or to an organization of the Party. Before this order came out there were numerous decrees in the individual precintts of the administration which urged the officials to join the organization so strongly that it was equivalent to an order. As a young man beginning my career, I did not know a single colleague who did not belong to the Party or one of its branches. So far, I have spoken of direct compulsion. There was also indirect compulsion.

MR. McILWRAITH: I haven't heard anything about direct compulsion so far.

DR. ASCHENAUER: We have the law, or order.

MR. McILWRAITH: That is legal decree, not compulsion.

BY DR. ASCHENAUER:

Q Is the membership, the joining of an organization to be considered as legal compulsion? It is absolutely necessary to describe the whole background of laws and decrees and then I can submit in Document Book 32a decrees to that effect. Was this regulated compulsion the case in all the branches?

A The decree which I mentioned was valid for all branches of the administration.

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Q What decree and laws were issued in order to establish the service of the officials in organizations?

A The organizations themselves had to establish the service. I know of no law or decree on that subject. I can only say that Rhinehardt of the ~~Xxxx~~ Reich Finance Ministry established schools and every participant in the class had to belong to the SA. If he did not previously belong, he was automatically assigned to the local SA .

Q What is meant by political judgment?

A The political judgment is the opinion by a Party authority, by Party organizations, on the political attitude of Government officials which were established by law. These opinions had to be handed in when a candidate was called into State service. Also, when he was made a permanent employee, at every promotion, and when he was assigned to certain important positions.

Q What was the effect of this political judgment?

A It was constant pressure on the officials ~~xx~~ who remained out of the Party to expect a bad report.

~~XXXX~~ COL. GRIFFITH JONES: I must object again, that this is not within the rules allowed the Court. No witness, by any stretch of imagination, can give evidence of this kind by quoting physical compulsion or legal decree.

MR. McILWRAITH: I ~~thoroughly~~ finally agree. ~~Consult~~ Dr. Aschenauer I must confine you to whether physical compulsion or legal decree was used.

BY DR. ASCHENAUER:

Q I now come to laws and decress resulting from this political judgment. It is only a step from this political judgment to supervision by the SD. Are there legal regulations for service in the organization for officials and for students?

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A I have already mentioned the regulation on the training and career of German officials, which ~~asserted~~ exerted legal pressure for joining the Party or its organizations. I am, unfortunately, unable to say anything from my own knowledge about conditions among the students, but I know from relatives. . .

MR. McILWRAITH: The Tribunal does not want to hear what he knows from other people.

DR. ASCHENAUER: I will submit in my document book to the Court this regulation of the SA University office. ~~They~~ There are identical regulations from the SA University of Munich and from Marburg. This order is from the year 1933. In this connection, I will ask, how many students do you estimate were affected by this regulation?

MR. McILWRAITH: Are you going ~~x~~ to put this decree in?

DR. ASCHENAUER: Right now?

MR. McILWRAITH: To this witness?

DR. ASCHENAUER: No, in the document book when I submit all the SA documents to the Court.

MR. McILWRAITH: Then don't talk about it now unless you ~~xxxx~~ are putting it to this witness.

DR. ASCHENAUER: But this witness is able to give the figures of how many ~~xx~~ people ~~xx~~ were affected since he knows.

M. MONNERAY: I do not see ~~xxx~~ by what ~~authority~~ qualification this witness is able to give this answer.

DR. ASCHENAUER: He can answer the question for the following reason. This regulation ~~which~~ says all students in or before their ~~xxxx~~ third semester have to serve in the SA University Office and will be assigned to an organization by the office. The witness knows how many students were in German Universities in 1933 and 1934. The witness knows how many students were unable to serve for

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physcial reasons. The witness knows how many people were inelligible for the SS and for this reason he can give the answer.

COL. BROOKHART: Is that SA or SS?

DR. ASCHENAUER: The SS people joined voluntarily. The SA people were forced to join because of the regulations.

WITNESS: At the time when I was in a University, there were about 150,000 people studying at all the Universities. If we eliminate the female students, the physically unfit, and those already belonging to an organization, I estimate that 100,000 were left who were forced to join the organization.

MR. MCILWRAITH: What was the date?

WITNESS: 1933 and 1934.

COL. BROOKHART: That answer came from Consul. If he will permit the Witness to answer so that . . .

MR. McILWRAITH: Will you please not suggest answers to the Witness.

WITNESS: I am referring to conditions from the fall of 1933 to the beginning of 1934. At this time I was in the town of Marburg.

DR. ASCHENAUER: ~~Judge~~ Justice Jackson said he did not blame people for joining the organizations, but for remaining in them. For this reason, I must ask, did the generation in question serve willingly?

COL. BROOKHART: The question is much too broad. As I understand the question, it is much too broad to apply to all members. How could he possibly know if each individual served willingly?

DR. ASCHENAUER: Then will he answer the question for those men he knew.

MR. McILWRAITH: First he must say for how many he can speak.

WITNESS: I can speak for the people with whom I served in three SA troops, but these cases were just for the SA

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MR. MCILWRAITH: And how many persons is he thinking of?

WITNESS: The average SS unit consisted of 100 to 150 men, so in 7 years of my service, I served with 500.

MR. MCILWRAITH: Out of 100,000?

WITNESS: I do not know the total of the SA.

MR. MCILWRAITH: But a hundred thousand persons he has told us were forced to join the ~~jew~~ organizations?

WITNESS: I believe the attorney meant the question ~~in~~ not only in regard to the hundred thousand students, but also for the whole generation who were forced to join the SA.

DR. ASCHENAUER: We mentioned previously the regulation on the career of officials.

COL. BROOKHART: May we have an answer to the question as it has been corrected by the Commissioner?

MR. MCILWRAITH: How many, of the 500 people for whom you speak, were forced to join the SA?

COL. BROOKHART: Served ~~xxxxxxxxx~~ voluntarily, I believe was the phrase.

DR. ASCHENAUER: I do not understand the connection. Please repeat what the Prosecution meant.

MR. MCILWRAITH: The question is, how many of the 500 persons of whom you can speak were forced to join the SA, and how many joined voluntarily?

DR. ASCHENAUER: I ask first, the number of students affected by the regulation of the University, and I ask ~~xxxxxxxxxx~~ whether there was a law for training of officials and in the third place, I ask whether the generation in question served in the SA willingly, and in the 4th ~~xxxx~~ place, that this circular is limited -- and the witness knows about this circular

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and I ask about this circular. Did they serve in the SA willingly? That is the connection ~~xxxxx~~ which I ask ~~not~~ be/ nor disturbed.

COL. BROOKHART: That was what the objection was based on, that he framed his question much too broadly. As I understand it, the question is too broad and if I understand the Commissioner, he neglected to narrow it down to the Commissioner's question.

MR. McILWRAITH: That is so. I want the witness to answer my question because yours is too broad.

DR. ASCHENAUER: Then I would like to limit the question still furhter, and ask under what slogan did the students , new officials and officials serve in the SA?

MR. McILWRAITH: You may ask that after he has answered my question.

WITNESS: I am asked to say how many of the people with whom I came in contact were forced to ~~x~~ join the SA. I cannot say this because I did not talk to each man about his circumstances of his joining the SA. I feel obliged to speak for the career officials in the SA, and I must say they were under very strong pressure.

MR. McILWRAITH: Yes, but strong pressure is not physical compulsion. Unless Dr. Aschenauer confines himself to ~~the~~ ~~xxxxxxx~~ relevant questions, we shall have to dismiss this witness as irrelevant and useless.

DR. ASCHENAUER: I think that these questions are relevant because I have shown that there are three laws giving legal compulsion. In this connection, physical compulsion is a strengthening of legal compulsion. I admit that physical compulsion is not strong enough, but if it is united with legal compulsion, then it becomes stronger.

BY DR. ASCHENAUER:

Q Now, will you please answer the question. Under what motto did the

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students and officials serve in the SA?

A Do you mean what nature was their service in the SA?

Q I ask whether there was reason for a conflict of conscience?

A There was no occasion for such a conflict in any case. The service consisted primarily of physical training. Every SA man was compelled to earn the SA or sport insignia. ~~Was~~ It was not by any means military training.

In my 7 years as a small SA man, I never had a machine gun, a hand grenade, a pistol, a rifle, or anything of the sort in my hand. In addition to the physical training, the SA man served at parades, where he had to march or form quarters, or he participated in collections for winter relief, or collections of old material, or he was used in cases of emergency, such as floods, big snow falls, and so forth. In my 7 years as an SA man, I was never asked anything which I would have refused to do as an honorable man. Specifically, I was never asked to persecute persons of a different race or a different religion, or commit any other acts of violence.

MR. McILWRAITH: This is not an answer to a question, but a speech. Dr. Aschenauer, how many more questions have you?

DR. ASCHENAUER: Six, at the most.

MR. McILWRAITH: Can they be answered Yes or No?

DR. ASCHENAUER: No.

MR. McILWRAITH: Then we will adjourn until tomorrow.

(The Commission adjourned at 1706 hours.)

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The foregoing is a true and correct transcript of the testimony of Dr. Gottfried Boley, taken on 27 May 1946.

Priliani A. Ahuna
Reporter (pp 1-13)

Reporter (pp)

Reporter (pp)

CERTIFIED TO:

I. D. McGlowaith
Commissioner

J. Rasumov
Commissioner

H0921-0016

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

COMMISSIONERS:

Mr. I. D. McIlwraith
Mr. Igor Rasvmov

SA

(The commission resumed at 1620 hours.)

Dr. GOTTFRIED BOLEY, a witness, took the stand and testified as follows:

MR. McILWRAITH: Your name is Gottfried Boley?

WITNESS: Yes.

MR. McILRAITH : Will you raise your right hand, and repeat after me?

I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeats the oath).

MR. McILRAITH: You may sit down.

BY DR. ASCHENAUER, for S.A.:

Q You were Ministerialrat in the Reich Chancellory?

A Yes, since the first of March, 1943, I was in the Reich Chancellory since January, 1941.

Q Where were you employed previously?

A I was previously employed in the Reich Finance Ministry as State Counsellor.

Q Are you, so to speak, an expert witness on personnel matters regarding officials?

A During my career I have had occasion to get information about the civil service regulations and officials since I was the personnel expert in the Reich Finance Ministry and Reich Chancellory, and in both I dealt with personnel.

LT. COL. BROOKHART: Might I inquire as to what is the document the witness seems to be referring to?

WITNESS: This is the questionnaire which was submitted to me and the answers, which I wrote down to support my memory.

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LT. COL. BROOKHART: May I request that the witness be permitted to examine only such documents as are put before him by Counsel?

MR. McILWRAITH: You must answer questions of your knowledge or say you cannot answer them.

WITNESS: I put the notes down completely from memory.

MR. McILWRAITH: But you have told us that they were questions asked you by somebody else.

WITNESS: Yes, questions which the lawyer gave me.

MR. McILWRAITH: I don't think you need refer to them.

WITNESS: I am also able to speak from memory.

BY DR. ASCHENAUER:

Q Were you active in the SA?

A Yes, from 1 November 1933.

Q What rank did you hold there?

A I was Oberscharfuehrer, but it may be that in 1944 I was promoted to Sturmfuehrer since a colleague told me so. I never received official confirmation of this from the SA.

Q Did you earn this rank through service?

A No. I did my last SA service in January, 1941, before I moved to Berlin from Kassel.

Q Was it customary for officials to be given a rank on the basis of their service?

A Not generally, but if they were officials in somewhat high positions, such as State Secretary, Section Chiefs, and so forth, in these cases it was advisable that they have a uniform to wear on certain occasions. These officials were given a title and a uniform of the organizations, but they had no duties in the organizations. These are so-called honorary ranks or special duty ranks. They were mostly high ranks but it also happened that lower ranks were given on an honorary basis as in my case, for instance.

Q Before the seizure of power, did a large proportion of career officials belong to the Party of the SA?

A No, a very small part. The Weimar Constitution had the rule that the officials had to serve in a Party in a certain community, and for that reason and from his training, the official joined the Party.

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From my own observation I must say that the greater part of high officials rejected National Socialism. The majority of the votes for National Socialism before the seizure of power probably were given by the middle and lower officials.

Q What was the effect of the seizure of power on the officials? First, tell me what the effect was on the career officials, and then on the political officials.

A I can hardly answer this question fully under these circumstances. I can only give the main facts.

The career officials, the groups of career officials, as it was formed under the Prussian Kings, was a special group of . . .

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M. MONNERAY: May I ask whether the Defense Consul can confine his questions to more specific subjects and avoid all these speeches?

COL. JONES: I cannot see how the effect of the seizure of power on civil service is relevant to the case at all.

DR. ASCHENZUER: This question is necessary in order to explain the effect of laws and regulations on the officials. This is necessary to show whether the membership in these organizations was a matter of compulsion or whether it was the result of a legal regulation.

MR. McILWRAITH: How does the history of the Prussian Kings affect a decree in 1933?

DR. ASCHENAUER: This is important because only through knowledge of the history of career officials can the effect of National Socialism be shown.

MR. McILWRAITH: I do not know in what way this witness is qualified to speak on historical matters.

DR. ASCHENAUER: Every official in the Reich Chancellory is qualified to speak of the history . . .

MR. McILWRAITH: The Tribunal will not hear the question on the historical portion.

DR. ASCHENAUER: Then I will ask this question.

BY DR. ASCHENAUER:

Q Did the State, at the beginning of National Socialistic regime issue orders, laws and regulations which had an effect on career officials?

A Yes, All the rules, laws and regulations about the reconstruction of the State had to have an effect on the State officials since they were the ones who carried out the laws. On the other hand, the official was obliged to serve the State, even after the seizure of power, since it is in the nature of the German civil service system for the official to continue to do his duty in spite of the change of the political party.

As for laws, I would like to mention especially, the one for

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the rehabilitation of career officialdom.

Q What was the significance of this so-called law for the rehabilitation of career officialdom?

A It was asserted during a previous representation that career officialdom had been infected with people who were not qualified in their field. For that reason, it was to be rehabilitated. Any official who had the misfortune of having a political conviction different from the Party which had now come to power had to be dismissed. Nevertheless, the policy in this connection was for the time being moderate. But the old career officials condemned the fact that the National Socialists did what they had criticised their predecessors for doing, and that it put people into office who had done political service but had no expert qualification.

Q What was the effect of the law on the unity of the Partisan state on career officialdom?

A This law had no great effect since it was only of a nature which affected the State as it developed. But the law gave the Party organization great moral support on asserting their influence on the administration and officials.

Q How could the duty of the official to the State and his relation to the Party be reconciled?

A The official owed the State absolute obedience. The State identified itself with the Party and the organizations. This meant for the officials, to a certain degree, a duty for obedience to the Party and its organizations. How this worked out in practice depended entirely on the administrative plans in which this official was employed and on the habits of the local Party organization. Man officials were requested to take an active stand for and in the Part

Q Did the point of view of a frictionless transfer have any influence on the officials?

A I understand the question as follows: Did the official remain loyal to his duties after the 30th of January, 1933, in spite of the fact that his inner convictions were not the same as those of the Nazi Party?

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That is true. The duty of the official was to stick to his post, especially at the time of a change of regime, and to continue the vital activities of administration.

Q Then the duty of the official and the law of the units of a Partisan state actually laid compulsion on the officials to serve the Party such as the SA?

A The duty, yes. The law of a Partisan state to a lesser extent. Rather, the general tenor of the statements which were heard from the authoritative sources after 30 January 1933, mentioned new duties of the officials which, among other things, said that the official was to take active part in the Party and...

COL. GRIFFITY JONES: I hate to interrupt this evidence, not that it is in any way difficult from the point of view of the Prosecution, but in the interest of time I do not think it is necessary. Nothing that this witness has yet said has any bearing upon the question whether civil service employees were compelled to belong to the SA or not, and as I understand it, that is the question.

MR. McILWRAITH: What we are concerned with is whether there was any physical compulsion or any legal decree which forced them to join and remain in the Party. Will you please direct your questions to those matters and obtain short answers?

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DR. ASCHENAUER: I am thankful that I was able to ask these questions as a preliminary, and now I come to the legal portion.

BY DR. ASCHENAUER:

Q Were there laws forcing the officials or the employees to join the Party or its organizations?

A There is a law of the 28th of February, 1939, on the training and career of the German official. This order says that the candidate applying for a state position must belong to the Party or to an organization of the Party. Before this order came out there were numerous decrees in the individual precincts of the administration which urged the officials to join the organization so strongly that it was equivalent to an order. As a young man beginning my career, I did not know a single colleague who did not belong to the Party or one of its branches. So far, I have spoken of direct compulsion. There was also indirect compulsion.

MR. MC ILWRAITH: I haven't heard anyth ing about direct compulsion so far.

DR. ASCHENAUER: We have the law, or order.

MR. MC ILWRAITH: That is legal decree, not compulsion.

BY DR. ASCHENAUER:

Q Is the membership, the joining of an organization to be considered as legal compulsion? It is absolutely necessary to describe the whole background of laws and decrees and then I can submit in Document a Book 32 decrees to that effect. Was this regulated compulsion the case in all the branches?

A The decree which I mentioned was valid for all branches of the administration.

Q What decree and laws were issued in order to establish the service of the officials in organizations?

A The organizations themselves had to establish the service. I know of no law or decree on that subject. I can only say that Rhinehardt of the Reich Finance Ministry established schools and every participant in the class had to belong to the SA. If he did not previously belong, he was automatically assigned to the local SA.

Q What is meant by political judgment?

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A The political judgment is the opinion by a Party authority, by Party organizations, on the political attitude of Government officials which were established by law. These opinions had to be handed in when a candidate was called into State service. Also, when he was made a permanent employee, at every promotion, and when he was assigned to certain important positions.

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A It was constant pressure on the officials who remained out of the Party to expect a bad report.

COL. GRIFFITH JONES: I must object again, that this is not within the rules allowed the Court. No witness, by any stretch of imagination, can give evidence of this kind by quoting physical compulsion or legal decree.

MR. MC ILWRAITH: I entirely agree. Dr. Aschenauer, I must confine you to whether physical compulsion or legal decree was used.

BY DR. ASCHENAUER:

Q I now come to laws and decrees resulting from this political judgment. It is only a step from this political judgment to supervision by the SD. Are there legal regulations for service in the organization for officials and for students?

A I have already mentioned the regulation on the training and career of German officials, which exerted legal pressure for joining the Party or its organizations. I am, unfortunately, unable to say anything from my own knowledge about conditions among the students, but I know from relatives.....

MR. MC ILWRAITH: The Tribunal does not want to hear what he knows from other people.

DR. ASCHENAUER: I will submit in my document book to the Court this regulation of the SA University office. There are identical regulations from the SA University of Munich and from Marburg. This order is from the year 1933. In this connection, I will ask, how many students do you estimate were affected by this regulation?

MR. MC ILWRAITH: Are you going to put this decree in?

DR. ASCHENAUER: Right now?

MR. MC ILWRAITH: To this witness?

DR. ASCHENAUER: No, in the document book when I submit all the SA documents to the Court.

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MR. MC ILWRAITH: Then don't talk about it now unless you are putting it to this witness.

DR. ASCHENAUER: But this witness is able to give the figures of howmany people were affected since he knows.

M. MONNERAY: I do not see by what qualification this witness is able to give this answer.

DR. ASCHENAUER: He can answer the question for the following reason. This regulation says all students in or before their third semester have to serve in the SA University Office and will be assigned to an organization by the office. The witness knows how many students were in German Universities in 1933 and 1934. The witness knows how many students were unable to serve for

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physical reasons. The witness knows how many people were ineligible for the SS and for this reason he can give the answer.

COL. BROOKHART: Is that SA or SS?

DR. ASCHENAUER: The SS people joined voluntarily. The SA people were forced to join because of the regulations.

WITNESS: At the time when I was in a University, there were about 150,000 people studying at all the Universities. If we eliminate the female students, the physically unfit, and those already belonging to an organization, I estimate that 100,000 were left who were forced to join the organization.

MR. MCILWRAITH: What was the date?

WITNESS: 1933 and 1934.

COL. BROOKHART: That answer came from Counsel. If he will permit the Witness to answer so that . . .

MR. McILWRAITH: Will you please not suggest answers to the Witness.

WITNESS: I am referring to conditions from the fall of 1933to the beginning of 1934. At this time I was in the town of Marburg.

DR. ASCHENAUER: Justice Jackson said he did not blame people for joining the organizations, but for remaining in them. For this reason, I must ask, did the generation in question serve willingly?

COL. BROOKHART: The question is much too broad. As I understand the question, it is much too broad to apply to all members. How could he possibly know if each individual served willingly?

DR. ASCHENAUER: Then will he answer the question for those men he knew?

MR. McILWRAITH: First he must say for how many he can speak.

WITNESS: I can speak for the people with whom I served in three SA troops, but these cases were just for the SA.

MR. McILWRAITH: And how many persons is he thinking of?

WITNESS: The average SS unit consisted of 100 to 150 men, so in 7 years of my service, I served with 500.

MR. McILWRAITH: Out of 100,000?

WITNESS: I do not know the total of the SA.

MR. McILWRAITH: But a hundred thousand persons he has told us were forced to join the organizations?

WITNESS: I believe the attorney meant the question not only in

regard to the hundred thousand students, but also for the whole generation who were forced to join the SA.

DR. ASCHENAUER: We mentioned previously the regulation on the career of officials.

COL. BROOKHART: May we have an answer to the question as it has been corrected by the Commissioner?

Mr. McILWRAITH: How many of the 500 people for whom you speak, were forced to join the SA?

COL. BROOKHART: Served voluntarily, I believe was the phrase.

DR. ASCHENAUER: I do not understand the connection. Please repeat what the Prosecution meant.

Mr. McILWRAITH: The question is,how many of the 500 persons of whom you can speak were forced to join the SA, and how many joined voluntarily?

DR. ASCHENAUER: I asked first, the number of students affected by the regulation of the University, and I asked whether there was a law for training of officials and in the third place, I asked whether the generation in question served in the SA willingly, and in the fourth place, that this circular is limited -- and the witness knows about this circular and I asked about this circular. Did they serve in the SA willingly? That is the connection which I ask be not disturbed.

COL. BROOKHART: That was what the objection was based on, that he framed his question much too broadly. As I understand it, the question is too broad and if I understand the Commissioner, he neglected to narrow it down to the Commissioner's question.

MR. McILWRAITH: That is so. I want the witness to answer my question because yours is too broad.

DR. ASCHENAUER: Then I would like to limit the question still further, and ask under what slogan did the students, new officials and officials serve in the SA?

MR. McILWRAITH: You may ask that after he has answered my question.

WITNESS: I am asked to say how many of the people with whom I came in contact were forced to join the SA. I cannot say this because I did not talk to each man about his circumstances of his joining the SA. I feel

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obliged to speak for the career officials in the SA, and I must say they were under very strong pressure.

MR. McILWRAITH: Yes, but strong pressure is not physical compulsion. Unless Dr. Aschenauer confines himself to relevant questions, we shall have to dismiss this witness as irrelevant and useless.

DR. ASCHENAUER: I think that these questions are relevant because I have shown that there are three laws giving legal compulsion. In this connection, physical compulsion is a strengthening of legal compulsion. I admit that physical compulsion is not strong enough, but if it is united with legal compulsion, then it becomes stronger.

BY DR. ASCHENAUER:

Q Now, will you please answer the question. Under what motto did the

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students and officials servce in the SA?

A. Do you mean what nature was their service in the SA?

Q. I ask whether there was reason for a conflict of conscience?

A. There was no occasion for such a conflict in any case. The service consisted primarily of physical training. Every SA man was compelled to earn the SA or sport insignia. It was not by any means military training.

In my 7 years as a small SA man, I never had a machine gun, a hand grenade, a pistol, a rifle, or anything of the sort in my hand. In addition to the physical training, the SA man served at parades, where he had to march or form quarters, or he participated in collections for winter relief, or collections of old material, or he was used in cases of emergency, such as floods, big snow falls, and so forth. In my 7 years as an SA man, I was never asked anything which I would have refused to do as an honorable man. Specifically, I was never asked to persecute persons of a different race or a different religion, or commit any other acts of violence.

MR. McILWRAITH: This is not an answer to a question, but a speech. Dr. Aschenauer, how many more questions have you?

DR. ASCHENAUER: Six, at the most.

MR. McILWRAITH: Can they be answered Yes or No?

DR. ASCHENAUER: No.

MR. McILWRAITH: Then we will adjourn until tomorrow.

(The Commission adjourned at 1706 hours.)

The foregoing is a true and correct transcript of the testimony of Dr. Gottfried Boley, taken on 27 May 1946.

Piiliani Ahuna
Reporter (pp -1-13)

CERTIFIED TO:

I.D. McILWRAITH
Commissioner

I. RASUMOV
Commissioner

H0921-0029

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

COMMISSIONERS:

Mr. I. D. McIlwraith
Mr. Igor Rasvmov

SA

(The commission resumed at 1620 hours.)

Dr. GOTTFRIED BOLEY, a witness, took the stand and testified as follows:

MR. McILWRAITH: Your name is Gottfried Boley?

WITNESS: Yes.

MR. McILRAITH : Will you raise your right hand, and repeat after me?

I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeats the oath).

MR. McILRAITH: You may sit down.

BY DR. ASCHENAUER, for S.A.:

Q You were Ministerialrat in the Reich Chancellory?

A Yes, since the first of March, 1943, I was in the Reich Chancellory since January, 1941.

Q Where were you employed previously?

A I was previously employed in the Reich Finance Ministry as State Counsellor.

Q Are you, so to speak, an expert witness on personnel matters regarding officials?

A During my career I have had occasion to get information about the civil service regulations and officials since I was the personnel expert in the Reich Finance Ministry and Reich Chancellory, and in both I dealt with personnel.

LT. COL. BROOKHART: Might I inquire as to what is the document the witness seems to be referring to?

WITNESS: This is the questionnaire which was submitted to me and the answers, which I wrote down to support my memory.

H0921-0030

LT. COL. BROOKHART: May I request that the witness be permitted to examine only such documents as are put before him by Counsel?

MR. McILWRAITH: You must answer questions of your knowledge or say you cannot answer them.

WITNESS: I put the notes down completely from memory.

MR. McILWRAITH: But you have told us that they were questions asked you by somebody else.

WITNESS: Yes, questions which the lawyer gave me.

MR. McILWRAITH: I don't think you need refer to them.

WITNESS: I am also able to speak from memory.

BY DR. ASCHENAUER:

Q Were you active in the SA?

A Yes, from 1 November 1933.

Q What rank did you hold there?

A I was Oberscharfuehrer, but it may be that in 1944 I was promoted to Sturmfuehrer since a colleague told me so. I never received official confirmation of this from the SA.

Q Did you earn this rank through service?

A No. I did my last SA service in January, 1941, before I moved to Berlin from Kassel.

Q Was it customary for officials to be given a rank on the basis of their service?

A Not generally, but if they were officials in somewhat high positions, such as State Secretary, Section Chiefs, and so forth, in these cases it was advisable that they have a uniform to wear on certain occasions. These officials were given a title and a uniform of the organizations, but they had no duties in the organizations. These are so-called honorary ranks or special duty ranks. They were mostly high ranks but it also happened that lower ranks were given on an honorary basis as in my case, for instance.

Q Before the seizure of power, did a large proportion of career officials belong to the Party of the SA?

A No, a very small part. The Weimar Constitution had the rule that the officials had to serve in a Party in a certain community, and for that reason and from his training, the official joined the Party.

H0921-0031

From my own observation I must say that the greater part of high officials rejected National Socialism. The majority of the votes for National Socialism before the seizure of power probably were given by the middle and lower officials.

Q What was the effect of the seizure of power on the officials? First, tell me what the effect was on the career officials, and then on the political officials.

A I can hardly answer this question fully under these circumstances. I can only give the main facts.

The career officials, the groups of career officials, as it was formed under the Prussian Kings, was a special group of . . .

H0921-0032

M. MONNERAY: May I ask whether the Defense Consul can confine his questions to more specific subjects and avoid all these speeches?

COL. JONES: I cannot see how the effect of the seizure of power on civil service is relevant to the case at all.

DR. ASCHENZUER: This question is necessary in order to explain the effect of laws and regulations on the officials. This is necessary to show whether the membership in these organizations was a matter of compulsion or whether it was the result of a legal regulation.

MR. McILWRAITH: How does the history of the Prussian Kings affect a decree in 1933?

DR. ASCHENAUER: This is important because only through knowledge of the history of career officials can the effect of National Socialism be shown.

MR. McILWRAITH: I do not know in what way this witness is qualified to speak on historical matters.

DR. ASCHENAUER: Every official in the Reich Chancellery is qualified to speak of the history . . .

MR. McILWRAITH: The Tribunal will not hear the question on the historical portion.

DR. ASCHENAUER: Then I will ask this question.

BY DR. ASCHENAUER:

Q Did the State, at the beginning of National Socialistic regime issue orders, laws and regulations which had an effect on career officials?

A Yes, All the rules, laws and regulations about the reconstruction of the State had to have an effect on the State officials since they were the ones who carried out the laws. On the other hand, the official was obliged to serve the State, even after the seizure of power, since it is in the nature of the German civil service system for the official to continue to do his duty in spite of the change of the political party.

As for laws, I would like to mention especially, the one for

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the rehabilitation of career officialdom.

Q What was the significance of this so-called law for the rehabilitation of career officialdom?

A It was asserted during a previous representation that career officialdom had been infected with people who were not qualified in their field. For that reason, it was to be rehabilitated. Any official who had the misfortune of having a political conviction different from the Party which had now come to power had to be dismissed. Nevertheless, the policy in this connection was for the time being moderate. But the old career officials condemned the fact that the National Socialists did what they had criticised their predecessors for doing, and that it put people into office who had done political service but had no expert qualification.

Q What was the effect of the law on the unity of the Partisan state on career officialdom?

A This law had no great effect since it was only of a nature which affected the State as it developed. But the law gave the Party organization great moral support on asserting their influence on the administration and officials.

Q How could the duty of the official to the State and his relation to the Party be reconciled?

A The official owed the State absolute obedience. The State identified itself with the Party and the organizations. This meant for the officials, to a certain degree, a duty for obedience to the Party and its organizations. How this worked out in practice depended entirely on the administrative plans in which this official was employed and on the habits of the local Party organization. Man officials were requested to take an active stand for and in the Part

Q Did the point of view of a frictionless transfer have any influence on the officials?

A I understand the question as follows: Did the official remain loyal to his duties after the 30th of January, 1933, in spite of the fact that his inner convictions were not the same as those of the Nazi Party?

H0921-0034

That is true. The duty of the official was to stick to his post, especially at the time of a change of regime, and to continue the vital activities of administration.

Q Then the duty of the official and the law of the units of a Partisan state actually laid compulsion on the officials to serve the Party such as the SA?

A The duty, yes. The law of a Partisan state to a lesser extent. Rather, the general tenor of the statements which were heard from the authoritative sources after 30 January 1933, mentioned new duties of the officials which, among other things, said that the official was to take active part in the Party and...

COL. GRIFFITY JONES: I hate to interrupt this evidence, not that it is in any way difficult from the point of view of the Prosecution, but in the interest of time I do not think it is necessary. Nothing that this witness has yet said has any bearing upon the question whether civil service employees were compelled to belong to the SA or not, and as I understand it, that is the question.

MR. McILWRAITH: What we are concerned with is whether there was any physical compulsion or any legal decree which forced them to join and remain in the Party. Will you please direct your questions to those matters and obtain short answers?

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DR. ASCHENAUER: I am thankful that I was able to ask these questions as a preliminary, and now I come to the legal portion.

BY DR. ASCHENAUER:

Q Were there laws forcing the officials or the employees to join the Party or its organizations?

A There is a law of the 28th of February, 1939, on the training and career of the German official. This order says that the candidate applying for a state position must belong to the Party or to an organization of the Party. Before this order came out there were numerous decrees in the individual precincts of the administration which urged the officials to join the organization so strongly that it was equivalent to an order. As a young man beginning my career, I did not know a single colleague who did not belong to the Party or one of its branches. So far, I have spoken of direct compulsion. There was also indirect compulsion.

MR. MC ILWRAITH: I haven't heard anyth ing about direct compulsion so far.

DR. ASCHENAUER: We have the law, or order.

MR. MC ILWRAITH: That is legal decree, not compulsion.

BY DR. ASCHENAUER:

Q Is the membership, the joining of an organization to be considered as legal compulsion? It is absolutely necessary to describe the whole background of laws and decrees and then I can submit in Document a Book 32 decrees to that effect. Was this regulated compulsion the case in all the branches?

A The decree which I mentioned was valid for all branches of the administration.

Q What decree and laws were issued in order to establish the service of the officials in organizations?

A The organizations themselves had to establish the service. I know of no law or decree on that subject. I can only say that Rhinehardt of the Reich Finance Ministry established schools and every participant in the class had to belong to the SA. If he did not previously belong, he was automatically assigned to the local SA.

Q What is meant by political judgment?

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A The political judgment is the opinion by a Party authority, by Party organizations, on the political attitude of Government officials which were established by law. These opinions had to be handed in when a candidate was called into State service. Also, when he was made a permanent employee, at every promotion, and when he was assigned to certain important positions.

Q What was the effect of this political judgment?

A It was constant pressure on the officials who remained out of the Party to expect a bad report.

COL. GRIFFITH JONES: I must object again, that this is not within the rules allowed the Court. No witness, by any stretch of imagination, can give evidence of this kind by quoting physical compulsion or legal decree.

MR. MC ILWRAITH: I entirely agree. Dr. Aschenauer, I must confine you to whether physical compulsion or legal decree was used.

BY DR. ASCHENAUER:

Q I now come to laws and decrees resulting from this political judgment. It is only a step from this political judgment to supervision by the SD. Are there legal regulations for service in the organization for officials and for students?

A I have already mentioned the regulation on the training and career of German officials, which exerted legal pressure for joining the Party or its organizations. I am, unfortunately, unable to say anything from my own knowledge about conditions among the students, but I know from relatives.....

MR. MC ILWRAITH: The Tribunal does not want to hear what he knows from other people.

DR. ASCHENAUER: I will submit in my document book to the Court this regulation of the SA University office. There are identical regulations from the SA University of Munich and from Marburg. This order is from the year 1933. In this connection, I will ask, how many students do you estimate were affected by this regulation?

MR. MC ILWRAITH: Are you going to put this decree in?

DR. ASCHENAUER: Right now?

MR. MC ILWRAITH: To this witness?

DR. ASCHENAUER: No, in the document book when I submit all the SA documents to the Court.

H0921-0037

MR. MC ILWRAITH: Then don't talk about it now unless you are putting it to this witness.

DR. ASCHENAUER: But this witness is able to give the figures of howmany people were affected since he knows.

M. MONNERAY: I do not see by what qualification this witness is able to give this answer.

DR. ASCHENAUER: He can answer the question for the following reason. This regulation says all students in or before their third semester have to serve in the SA University Office and will be assigned to an organization by the office. The witness knows how many students were in German Universities in 1933 and 1934. The witness knows how many students were unable to serve for

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physical reasons. The witness knows how many people were ineligible for the SS and for this reason he can give the answer.

COL. BROOKHART: Is that SA or SS?

DR. ASCHENAUER: The SS people joined voluntarily. The SA people were forced to join because of the regulations.

WITNESS: At the time when I was in a University, there were about 150,000 people studying at all the Universities. If we eliminate the female students, the physically unfit, and those already belonging to an organization, I estimate that 100,000 were left who were forced to join the organization.

MR. MCILWRAITH: What was the date?

WITNESS: 1933 and 1934.

COL. BROOKHART: That answer came from Counsel. If he will permit the Witness to answer so that . . .

MR. McILWRAITH: Will you please not suggest answers to the Witness.

WITNESS: I am referring to conditions from the fall of 1933 to the beginning of 1934. At this time I was in the town of Marburg.

DR. ASCHENAUER: Justice Jackson said he did not blame people for joining the organizations, but for remaining in them. For this reason, I must ask, did the generation in question serve willingly?

COL. BROOKHART: The question is much too broad. As I understand the question, it is much too broad to apply to all members. How could he possibly know if each individual served willingly?

DR. ASCHENAUER: Then will he answer the question for those men he knew?

MR. McILWRAITH: First he must say for how many he can speak.

WITNESS: I can speak for the people with whom I served in three SA troops, but these cases were just for the SA.

MR. McILWRAITH: And how many persons is he thinking of?

WITNESS: The average SS unit consisted of 100 to 150 men, so in 7 years of my service, I served with 500.

MR. McILWRAITH: Out of 100,000?

WITNESS: I do not know the total of the SA.

MR. McILWRAITH: But a hundred thousand persons he has told us were forced to join the organizations?

WITNESS: I believe the attorney meant the question not only in

regard to the hundred thousand students, but also for the whole generation who were forced to join the SA.

DR. ASCHENAUER: We mentioned previously the regulation on the career of officials.

COL. BROOKHART: May we have an answer to the question as it has been corrected by the Commissioner?

Mr. McILWRAITH: How many of the 500 people for whom you speak, were forced to join the SA?

COL. BROOKHART: Served voluntarily, I believe was the phrase.

DR. ASCHENAUER: I do not understand the connection. Please repeat what the Prosecution meant.

Mr. McILWRAITH: The question is,how many of the 500 persons of whom you can speak were forced to join the SA, and how many joined voluntarily?

DR. ASCHENAUER: I asked first, the number of students affected by the regulation of the University, and I asked whether there was a law for training of officials and in the third place, I asked whether the generation in question served in the SA willingly, and in the fourth place, that this circular is limited -- and the witness knows about this circular and I asked about this circular. Did they serve in the SA willingly? That is the connection which I ask be not disturbed.

COL. BROOKHART: That was what the objection was based on, that he framed his question much too broadly. As I understand it, the question is too broad and if I understand the Commissioner, he neglected to narrow it down to the Commissioner's question.

MR. McILWRAITH: That is so. I want the witness to answer my question because yours is too broad.

DR. ASCHENAUER: Then I would like to limit the question still further, and ask under what slogan did the students, new officials and officials serve in the SA?

MR. McILWRAITH: You may ask that after he has answered my question.

WITNESS: I am asked to say how many of the people with whom I came in contact were forced to join the SA. I cannot say this because I did not talk to each man about his circumstances of his joining the SA. I feel

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obliged to speak for the career officials in the SA, and I must say they were under very strong pressure.

MR. McILWRAITH: Yes, but strong pressure is not physical compulsion. Unless Dr. Aschenauer confines himself to relevant questions, we shall have to dismiss this witness as irrelevant and useless.

DR. ASCHENAUER: I think that these questions are relevant because I have shown that there are three laws giving legal compulsion. In this connection, physical compulsion is a strengthening of legal compulsion. I admit that physical compulsion is not strong enough, but if it is united with legal compulsion, then it becomes stronger.

BY DR. ASCHENAUER:

Q Now, will you please answer the question. Under what motto did the

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students and officials servce in the SA?

A. Do you mean what nature was their service in the SA?

Q. I ask whether there was reason for a conflict of conscience?

A. There was no occasion for such a conflict in any case. The service consisted primarily of physical training. Every SA man was compelled to earn the SA or sport insignia. It was not by any means military training.

In my 7 years as a small SA man, I never had a machine gun, a hand grenade, a pistol, a rifle, or anything of the sort in my hand. In addition to the physical training, the SA man served at parades, where he had to march or form quarters, or he participated in collections for winter relief, or collections of old material, or he was used in cases of emergency, such as floods, big snow falls, and so forth. In my 7 years as an SA man, I was never asked anything which I would have refused to do as an honorable man. Specifically, I was never asked to persecute persons of a different race or a different religion, or commit any other acts of violence.

MR. McILWRAITH: This is not an answer to a question, but a speech. Dr. Aschenauer, how many more questions have you?

DR. ASCHENAUER: Six, at the most.

MR. McILWRAITH: Can they be answered Yes or No?

DR. ASCHENAUER: No.

MR. McILWRAITH: Then we will adjourn until tomorrow.

(The Commission adjourned at 1706 hours.)

The foregoing is a true and correct transcript of the testimony of Dr. Gottfried Boley, taken on 27 May 1946.

Piiliani Ahuna
Reporter (pp -1-13)

CERTIFIED TO:

I.D. McILWRAITH
Commissioner

I. RASUMOV
Commissioner